

REMARKS

Claims 1-8 and 10-14 are all the claims pending in the application; each of the claims has been rejected.

The claims have been amended to more fully comply with U.S. format regarding dependent claims and to more clearly recite that which Applicants regard as their invention.

No new matter has been added. Entry of the amendment is earnestly solicited.

I. Claim Objections

At paragraph 8 of the Office Action, claim 3 is objected to under 37 C.F.R. §1.75(c) as being in improper dependent form for failing to further limit the subject matter of the previous claim.

The Examiner states that while claim 3 depends from claim 1, it is not within the scope of claim 1 and should be re-written in independent form.

In response, Applicants include herewith an amendment to claim 3 such that the claim further limits the subject matter of the claim from which it depends (i.e., claim 1).

In view of the amendment to the claim, Applicants assert that claim 3 is a proper dependent claim and therefore respectfully request reconsideration and withdrawal of this objection.

II. Claim Rejection Under 35 U.S.C. §112

A. At paragraph 9 of the Office Action, claims 1-2 and 10-14 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner states that the term "substantially" in claim 1 is a relative term which renders the claim indefinite, and that the term should be deleted.

In response, Applicants include herewith an amendment to claim 1 such that the term “substantially” has been deleted from the claim.

In view of the amendment, Applicants assert that amended claim 1 is now definite as written and therefore respectfully request reconsideration and withdrawal of this rejection.

B. At paragraph 10 of the Office Action, claims 1-4, 6-8 and 10-14 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner states that SEQ ID NOs:4 and 9 are the same, and that SEQ ID NOs:5 and 10 are the same, and that in each instance, the recitation of both renders the claims indefinite.

In response, Applicants include herewith an amendment to the claims such that recitations of SEQ ID NOs:4 and 5 have been deleted from the claims.

In view of the amendments, Applicants assert that the amended claims are now definite as written and therefore respectfully request reconsideration and withdrawal of this rejection.

C. At paragraph 11 of the Office Action, claims 1-3, 6-8 and 10-13 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner states that in claim 1, the function of “functioning in the suppression of smooth muscle cell proliferation” is not particular and specific, and lacks clarity. The Examiner suggests replacing the phrase with the following: “wherein said polypeptide suppresses smooth muscle cell proliferation” in claims 1, 3 and 8.

In response, Applicants thank the Examiner for the helpful suggestion and have amended the claims accordingly.

In view of the amendments, Applicants assert that the amended claims are now definite as written and therefore respectfully request reconsideration and withdrawal of this rejection.

D. At paragraph 12 of the Office Action, claim 12 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

The Examiner states that the abbreviation "PTCA" is unclear in claim 12 and must be defined.

In response, Applicants include in the instant amendment instructions to cancel claim 12, thus making this rejection moot.

In view of the cancellation of the cited claim, Applicants respectfully request reconsideration and withdrawal of this rejection.

E. At paragraph 13 of the Office Action, claims 11-12 are rejected under 35 U.S.C. §112, first paragraph, as being non-enabled.

The Examiner states use of the A55 polypeptide as a pharmaceutical composition for the treatment of specific conditions would require undue experimentation. The Examiner further states that while the experimental data included in the specification indicates general pharmaceutical applications, no suggestion of specific pharmaceutical applications is enabled. The Examiner concludes that a particular pharmaceutical effect of the A55 protein is wholly unpredictable.

In response, Applicants include herewith instructions to cancel claim 12, thus making the rejection moot with respect to this claim.

Applicants also include herewith an amendment to claim 11 such that the claim recites a general pharmaceutical composition. As indicated by the examiner, the specification supports general pharmaceutical applications for the polypeptides of the present application.

In view of the amendments to the claims, Applicants assert that the amended claims are fully enabled and therefore respectfully request reconsideration and withdrawal of this rejection.

III. Claim Rejection Under 35 U.S.C. §101

At paragraph 14 of the Office Action, claims 3-5 and 14 are rejected under 35 U.S.C. §101, as being directed to non-statutory subject matter.

The Examiner states that the claims do not sufficiently distinguish over cDNA as it naturally exists. The Examiner states that the claims should be amended to indicate the hand of man, for example, by the insertion of "isolated" or "purified."

In response, Applicants note that cDNA is inherently produced "by the hand of man" as it is not a naturally-occurring molecule. Therefore, the claim is directed to statutory subject matter.

However, to further the prosecution of the application, Applicants include herewith an amendment to claims 3 and 14 to recite "isolated cDNA."

In view of the amendment to the claims, Applicants respectfully assert that the claims recite statutory subject matter and therefore respectfully request reconsideration and withdrawal of the rejection.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. §1.111
U.S. Appln. No. 09/674,330

Q61536

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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CUSTOMER NUMBER

Date: September 29, 2003